

Article 22A.

Agency Review of Engineering Work.

§ 143-228.10. (See Editor's note) Definitions.

The following definitions apply in this Article:

- (1) Practice of Engineering. – As defined in G.S. 89C-3.
- (2) Professional Engineer. – As defined in G.S. 89C-3.
- (3) Regulatory Authority. – The Department of Environmental Quality, the Department of Health and Human Services, and any unit of local government operating a program (i) that grants permits, licenses, or approvals to the public and (ii) that is either approved by or delegated from the Department of Environmental Quality or the Department of Health and Human Services.
- (4) Regulatory Submittal. – An application or other submittal to a Regulatory Authority for a permit, license, or approval. In the case of a unit of local government, Regulatory Submittal shall mean an application or submittal submitted to a program approved by or delegated from the Department of Environmental Quality or the Department of Health and Human Services.
- (5) Submitting Party. – The person submitting the Regulatory Submittal to the Regulatory Authority.
- (6) Working Job Title. – The job title a Regulatory Authority uses to publicly identify an employee with job duties that include the review of Regulatory Submittals. Working Job Title does not mean job titles that are used by the human resources department of a Regulatory Authority to classify jobs containing technical aspects related to the Practice of Engineering. (2014-120, s. 29(a); 2015-241, s. 14.30(u); 2015-264, s. 18.)

§ 143-228.11. Standardize certain regulatory review procedures.

No later than December 1, 2014, each Regulatory Authority shall review and, where necessary, revise its procedures for review of Regulatory Submittals to accomplish the following:

- (1) Standardize the provision of review and comments on Regulatory Submittals so that revisions or requests for additional information that are required by the Regulatory Authority in order to proceed with the permit, license, or approval are clearly delineated from revisions or requests for additional information that constitute suggestions or recommendations by the Regulatory Authority. For purposes of this subdivision, "suggestions or recommendations by the Regulatory Authority" means comments made by the reviewer of the Regulatory Submittal to the Submitting Party that make a suggestion or recommendation for consideration by the Submitting Party but that are not required by the Regulatory Authority in order to proceed with the permit, license, or approval.
- (2) With respect to revisions or requests for additional information that are required by the Regulatory Authority in order to proceed with the permit, license, or approval, the Regulatory Authority shall identify the statutory or regulatory authority for the requirement. (2014-120, s. 29(b).)

§ 143-228.12. Informal review; scope; annual report.

(a) Informal Review. – No later than December 1, 2014, each Regulatory Authority shall create a process for each regulatory program administered by the Regulatory Authority for an informal internal review at the request of the Submitting Party in each of the following circumstances:

- (1) The inclusion in a Regulatory Submittal of a design or practice sealed by a Professional Engineer but not included in the Regulatory Authority's existing guidance, manuals, or standard operating procedures. This review should first be conducted by the reviewing employee's supervisor or, in the case of a Regulatory Authority that is a unit of local government, either the reviewing employee's supervisor or the delegating or approving State agency. If this initial review was not conducted by a Professional Engineer, then the Submitting Party may request review by (i) a Professional Engineer on the staff of the Regulatory Authority or (ii) the delegating or approving State agency in the case of a Regulatory Authority that is a unit of local government. If the Regulatory Authority or delegating or approving State agency does not employ a Professional Engineer qualified and competent to perform the review, it may provide for review by a consulting Professional Engineer selected from a list developed and maintained by the Regulatory Authority. The Regulatory Authority may charge the Submitting Party for the costs of the review by the consulting Professional Engineer. Nothing in this subdivision is intended to limit the authority of the Regulatory Authority to make a final decision with regard to a Regulatory Submittal following the reviews described in this subdivision.
- (2) A disagreement between the reviewer of the Regulatory Submittal and the Submitting Party regarding whether the statutory or regulatory authority identified by the Regulatory Authority for revisions or requests for additional information designated as "required" under the procedures set forth in G.S. 143-228.11 justifies a required change.

(b) Scope. – Nothing in subsection (a) of this section shall limit or abrogate any rights available under Chapter 150B of the General Statutes to any Submitting Party.

(c) Repealed by Session Laws 2017-10, s. 4.10, effective May 4, 2017. (2014-120, ss. 29(c), (d), (j); 2017-10, s. 4.10.)

§ 143-228.13. Procedure to develop list of consulting professional engineers.

Regulatory Authorities shall develop formal written procedures to prepare and maintain a list of consulting Professional Engineers required pursuant to G.S. 143-228.12(a)(1). (2014-120, s. 29(e).)